

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

★ FEB 04 2011 ★

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

CALICO COTTAGE, INC.,

Plaintiff,

v.

TNB, Inc.

Defendant.

BROOKLYN OFFICE

*DLI*  
Civil Action No: CV11-0336 (~~ERY~~) (MDG)

**ORDER TO SHOW CAUSE FOR A  
PRELIMINARY INJUNCTION**

Upon the complaint of Calico Cottage, Inc., the declaration of Mark Wurzel, dated January 18, 2011, the declaration of Ronald Beilin, dated January 15, 2011, the declaration of Ian Gerrard, dated January 19, 2011, the exhibits attached thereto and the memorandum of law of Plaintiff Calico Cottage, Inc. and good cause being shown therefor:

*Set forth below*  
**IT IS HEREBY ORDERED**, that defendant TNB, Inc. show cause before this Court, ~~at~~ *as*  
~~the United States Courthouse located at 225 Cadman Plaza East, Brooklyn, New York 11201,~~  
*44*  
~~Courtroom No. 8 South, on \_\_\_\_\_, 2011, at \_\_\_\_\_ o'clock, or as soon thereafter as~~  
~~counsel may be heard,~~ why a preliminary injunction should not be entered pursuant to Rule 65 of the Federal Rules of Civil Procedure:

- (1) enjoining Defendant TNB, Inc., its agents, employees, representatives, successors and assigns, and those acting in privity or in concert therewith from marketing, selling or offering for sale fudge making equipment, fudge making ingredients and finished fudge that enable retailers to sell fudge to consumers, and make-at-home fudge mixes that are sold by retailers to consumers, until after January 30, 2012;

(2) Granting such other and further relief as this Court deems just and proper.

**IT IS FURTHER ORDERED** that service of a copy of this Order to Show Cause, the declarations of Mark Wurzel, Ronald Beilin and Ian Gerrard, the exhibits annexed thereto and the memorandum of law of Plaintiff Calico Cottage, Inc. and all of the papers filed in support of this application shall be deemed good and sufficient service if served upon defendant TNB, Inc. at its principal address of 305 Hickman Drive, Sanford, Florida 32771 by overnight delivery with a reputable carrier so as to be received on or before February 4, 2011.

**IT IS FURTHER ORDERED** that defendant TNB, Inc.'s papers in opposition to this application, if any, shall be served on plaintiff Calico Cottage, Inc.'s counsel, Cowan Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, NY 10036, by personal delivery or by overnight delivery with a reputable carrier so as to be received on or before February 14, 2011; and that Plaintiff shall serve its reply papers, if any, by overnight delivery with a reputable carrier so as to be received on or before February 21, 2011.

*The defendant is hereby directed to have counsel file a notice of appearance electronically and otherwise comply with the mandatory ECF requirements. Defendant's opposition*

**SO ORDERED**

Brooklyn, New York  
Feb. 2, 2011

S/DLI

United States District Judge

*papers and Plaintiff's reply must be filed electronically and hard courtesy copies immediately forwarded to chambers.*

*The court will notify the parties if it feels oral argument is necessary to assist the court in resolving this motion.*